

SERVICE DATE - SEPTEMBER 17, 1997

SURFACE TRANSPORTATION BOARD¹

DECISION

No. 41641

VULPLEX, INC.--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF J.H. WARE TRUCKING INC.

Decided: September 10, 1997

This proceeding arises out of the efforts of J.H. Ware Trucking Inc. (respondent) to collect undercharges on certain shipments from shipper, Vulplex, Inc. (petitioner). The matter is before the Board on referral from the United States District Court for the Eastern District of Missouri, Eastern Division, in J.H. Ware Trucking v. Vulplex, Inc., No. 4:93CV1901SNL (TIA) (referral order dated September 18, 1995).

By decision served October 25, 1995, a procedural schedule was established in this proceeding. Due dates were extended by subsequent decisions. Petitioner's opening statement was due on August 9, 1997.

By letter filed September 9, 1997, petitioner advised the Board that it expects that this case will be dismissed on the grounds that it is a small business. Accordingly, petitioner requests discontinuance and dismissal of this proceeding without prejudice. The request will be granted and the proceeding will be dismissed without prejudice.

It is ordered:

1. This proceeding is dismissed without prejudice.
2. This decision is effective on the service date.
3. A copy of this decision will be mailed to:

The Honorable Stephen N. Limbaugh
United States District Court for
the Eastern District of Missouri,
Eastern Division
U.S. Court & Custom House
1114 Market Street, Room 315
St. Louis, MO 63101

No. 4:93CV1901SNL (TIA)

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

¹ On December 29, 1995, the President signed the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICC Termination Act or the Act). Effective January 1, 1996, the Act abolished the Interstate Commerce Commission (ICC) and transferred various ICC functions to a newly created Surface Transportation Board (Board), including the resolution of issues in motor carrier undercharge proceedings, 49 U.S.C. 13709-13711.